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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/583,967

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Michael Komowski

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EXAMINER

MILLER, SAMANTHA A

ART UNIT

PAPER NUMBER

3749

MAIL DATE

DELIVERY MODE

11/24/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/583,967	<b>Applicant(s)</b> KOMOWSKI, MICHAEL	
	<b>Examiner</b> SAMANTHA A. MILLER	<b>Art Unit</b> 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

This office action is in response to applicant's response filed on 9/30/2010 and is to take the place of the office action filed on 8/5/2010.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the two side stops" in line 2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over DAUTRY (EP1469258) in view of The German Patent (DE 10151910).

5. A housing (2) and a flap arrangement (1) with at least two flap parts (3, 4) for opening and closing an opening which are pivotable about pivot axes (31, 41) which run

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parallel to one another, wherein end regions (32, 42) of the two flap parts (3, 4) bear against one another in the closed state of the flap arrangement (Fig.4a), roll and/or slide on one another during a movement (Fig.4b and Fig.4c), and a stop (curved section of 32, 42) is provided on the housing (2) in the central region between the pivot axes on at least one side of the flap arrangement (Fig.4a).

7. The central stop (curved section of 32, 42) and the two side stops (21, 22) are arranged on mutually opposing sides of the flap parts (3 and 4) (Fig.4a and Fig.4c).

DAUTRY teaches the invention above, however DAUTRY does not teach at least one flap part from the closed state into a partially open state or vice versa.

The German Patent (DE 10151910) teaches:

5. At least one flap (9) part from the closed state into a partially open state or vice versa (Fig.3).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the flaps of DAUTRY with the flaps of the German Patent in order for the flaps to independently move from one another allowing more control of the air movement.

Claims 1-4, 6, and 8-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over XIA (5,741,180) in view of DAUTRY (EP1469258).

XIA teaches:

1. A housing and a flap arrangement with at least two flap parts (56 and 56) for opening and closing an opening which are pivotable about a pivot axes (58 and 58) which run parallel to one another (Fig.1), each of said at least two flap parts including a

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first end (the center point of the straight end 76), a second end (the center point of the curved end 78) and a midpoint (the midpoint between the center point of the straight end and the center point of the curved end) halfway between said first end and said second end, the pivot axis (58) of, each of said at least two flap parts (56 and 56) being located between said first end (the center point of the straight end 76) and said midpoint (the midpoint between the center point of the straight end and the center point of the curved end) of each of said at least two flap parts, first ends (the center point of the straight end 76) of the two flap parts (56 and 56) bear against one another (Fig.2 shows 74 of the two section 76 and 76 bearing against one another on 75) in the closed state of the flap arrangement (Fig.2), and roll and/or slide on one another during a movement, at least one flap (the gasket material 74 rolls against each other) part from the closed state into a partially open state or vice versa (col.4 ll.21-31).

2. The at least one of the two flap parts (56 and 56) is formed, at least in the bearing region (at 75), to be extremely elastic (by 74 being gasket material).

4. The two flap parts (56 and 56) have a streamlined profile (same flat surface profiles, Fig.3).

6. One side stop (walls of 52 shown in Fig.4) is provided on the housing (Fig.4) on each side of the flap arrangement.

9. The air conditioning unit contains a device (col.3 ll.31-53).

10. The air conditioning unit comprises at least one of the following components: heat exchanger, radiator, evaporator, filter, temperature mixing flap, mixing chamber,

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one or more flow ducts and one or more control flaps for distributing the air to the outlet ducts (col.3 ll.31-53, has at least a heat exchanger, evaporator, and mixing chamber).

11. A housing (51) having an opening; first and second flap parts (56 and 56) for opening and closing the opening, said first and second flap parts each having a first end (the center point of the straight end 76), a second end (the center point of the curved end 78), a midpoint (the midpoint between the center point of the straight end and the center point of the curved end) halfway between said first end and said second, end and a pivot axis between said midpoint and said first end; said first and second flap parts being shiftable from a first configuration (Fig.3) wherein said first end of said first flap engages through a center portion (at 75) said first end of said second flap and said first and second flap parts cover the opening to a second configuration (Fig.4) wherein said first flap part at least partially uncovers the opening, wherein said first ends of the first and second flap parts engage one another as said first flap part moves from said first configuration to said second configuration.

Regarding claim 12; refer to the rejection of claim 1.

14. The second configuration, a distance between the pivot axis (58 and 58) of the first flap part and the pivot axis of the second flap part is less than a sum of the distance from the pivot axis of the first flap part to the first end of the first flap part and the distance from the pivot axis of the second flap part to the first end of the second flap part (In a closed state 74 is compressed against 75 in a sealing arrangement to do this the distance must be smaller than the distance when 74 is not in a compressed state).

Regarding claim 15, refer to the rejection of claim 14.

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Regarding claims 16 and 18; an air conditioning unit for motor vehicles including the device (as this is intended use the device is taught in an air conditioner and can be used in a vehicle).

Regarding claim 17, refer to the rejection of claim 5.

XIA teaches the invention above including showing the ends 74 and 74 bearing against one another in Fig.2; however XIA does not explicitly state the two flap parts bear against one another in the closed state or a coating of PP rubber or a foam injection-molded encapsulation.

DAUTRY teaches:

Regarding claims 1 and 11; the two flap parts bear against one another in the closed state.

3. The closed state, the two flap parts (3 and 4) are in planar contact (at 31 and 41, Fig.4a).

13. The first ends of the two flap parts engage one another by sliding on one another as said first flap part moves from said first configuration to said second configuration (Fig.4a to Fig.4b and Fig.4c).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the flaps of XIA with the first ends of DAUTRY in order to create one seal instead of two which would increase the effectiveness of the seal.

8. The flap parts (3, 4) have a coating of PP rubber or a foam injection-molded encapsulation (flexible foam, col.1 l.57-col.2 l.1).

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the flaps of XIA with the material of DAUTRY in order to have a material that is low cost flexible and strong.

### ***Response to Arguments***

Applicant's arguments filed 10/7/2009 have been fully considered but they are not persuasive.

Applicant contend Dautry does not teach a stop. However, claims are afforded the broadest reasonable interpretation. In this case claim 5 requires, "...and a stop is provided on the housing in the central region between the pivot axes on at least one side of the flap arrangement". Dautry teaches a stop as the curved section of 32, 42 that stop the movement of 32 and 42 and is provided on the housing since 32 and 42 are mounted on housing (2) in the central region (center of duct 2) between the pivot axes on at least one side of the flap arrangement (Fig.4a).

Applicant's arguments filed 9/30/2010 have been fully considered but they are not persuasive.

Applicant argues the rejection of the claims 1-18 is a 102 (b) rejection, however the office action dated 8/5/2010 clearly states it is a 103 (a) rejection.

Applicant contends that XIA does not teach two flap parts bear against one another or suggest any missing limitations of XIA. However, page 5 of the office action



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dated 8/5/2010 states, "XIA teaches the invention above however XIA does not teach the two flap parts bear against one another in the closed state or a coating of PP rubber or a foam injection-molded encapsulation." and further states Dautry teaches these limitations which applicant has not argued the teaching of Dautry for the teaching " in order to have a material that is low cost flexible and strong." To clarify this combination the rejection above state XIA teaches the invention above including showing the ends 74 and 74 bearing against one another in Fig.2; however XIA does not explicitly state the two flap parts bear against one another in the closed state or a coating of PP rubber or a foam injection-molded encapsulation.

Applicant contends that the combination of Xia in view of Dautry would cause the flaps to leak and having curved ends would cause the vent to leak. Xia appears to teach the ends of the flaps bearing against one another in Fig.2 and both flaps resting of stop 75. Dautry teaches the ends (32, 42) of the flaps sealing against one another. The combination would not leak as applicant has suggested because the flaps are not only bearing against one another forming a seal, but would also seal or rest on the central stop.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samantha A. Miller whose telephone number is 571-272 9967. The examiner can normally be reached on Monday - Thursday 8:00 - 4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ken Rinehart can be reached on 571-272-4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Samantha Miller  
Examiner  
Art Unit 3749  
10/21/2010

/Kenneth B Rinehart/  
Supervisory Patent Examiner, Art Unit 3743